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In re Application of IENI :
U.S. Application No.: 10/591,608 :
PCT Application No.: PCT/US2005/007274 :
Int. Filing Date: 04 March 2005 : DECISION
Priority Date Claimed: 05 March 2004 :
Attorney Docket No.: 61368-233549 :
For: CADASIL TREATMENT WITH :
CHOLINESTERASE INHIBITORS :

This is in response to applicant's "Petition and Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s) (37 C.F.R. § 1.497(d))" filed 26 December 2007.

BACKGROUND

On 04 March 2005, applicant filed international application PCT/US2005/007274, which claimed priority of an earlier United States application filed 05 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 05 September 2006.

On 05 September 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 26 December 2007, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Raymond Pratt should be added as an inventor and that John Ieni should be deleted as an inventor.

37 CFR 1.497(d) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the

international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided

With regard to item (3) above, the petition fails to state whether the application has been assigned by the original named inventor. In the event of such an assignment, written consent of the assignee must be provided. Any assignment of the application must be demonstrated by supplying a copy of the assignment agreement or specifying by reel and frame number where such assignment information is recorded.

With regard to item (4) above, a new declaration is not required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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